

Sessions Case No. 136/2010

Present:- Jimut Bahan Biswas,
Additional Sessions Judge,
Fast Track, First Court, Malda .

Order no. 55.

05.03.2013 Today is fixed for awaiting order from District Magistrate Malda, appearance of the accused persons, appearance of the erring officers and further order .

Out of 20 accused persons, 17 accused persons are present by filing hazira . 3 accused persons are absent by petition U/s 317 Cr.PC.

In view of the petition under section 317 of Cr.PC learned advocate for the absentee accused persons be permitted to conduct the case in their absence.

On behalf of State , Mr. Saibal Moitra being authorized by PP Malda, appears today with hazira . Subsequently, he submitted an application praying for an adjournment for one month on the reasons assigned thereon .

On behalf of the Defacto complainant an adjournment application is filed on the ground that they received the copy of petition U/s 321 Cr.PC today and they want to file written objection against the petition and time is urgently needed for the same .

No specific order towards the appointment of Special PP in this case according to the direction of Hon'ble Court passed in C.R.R.No. 3400 of 2012 has been received from the end of D.M,Malda despite of sending copy of order vide Memo No. 76(2), dated- 18.02.2013 . In the absence of specific appointment of Special PP in terms of order passed by the Hon'ble Court in C.R.R.No. 3400 of 2012 this Court can not proceed with the case further . So, the District Magistrate , Malda, is asked to submit a report in respect of the appointment of the Special PP as per the Order passed by the Hon'ble Court in C.R.R.No. 3400 of 2012 by the next date positively and without fail with satisfactory explanation . Active co-operation is urgently needed from the end of District Magistrate, Malda, in respect of compliance of Hon'ble Court's Order other wise Law will take its own course .

The erring officer ,R.I, Malda, appears before the Court in person . He submitted in open Court that he has already submitted his explanation with cogent documentary proof containing the recommendation of D.S.P, D & T. It was observed by this Court on earlier occasion that the explanation will be considered in presence of Special PP appointed by D.M,Malda , in strict compliance of Hon'ble Court . But as per submission of R.I, Malda, the explanation is taken up .

It is true that the explanation submitted by R.I,Malda, which is duly recommended by D.S.P D. & T and from the recommendation it appears that he has given a clean chit to the R.I,Malda, that his discipline and obedience is not questioned by S.P of the District . In my view that recommendation is not at all acceptable in the eye of law as this Court prima-facie observed that the R .I, Malda, has flouted the order of this Court and it is in utter violation of Court's order punishable U/s 174 of I.PC and as such show-cause with explanation is called for from the end of R.I, Malda , through S.P,Malda, but exceeding the jurisdiction D.S.PD & T , Mr. Haripada Sah has got no authority to give clean chit over the observation of the Court . It is completely derogatory to the dignity and prestige of this Court . So, a written explanation is called for from the end of D.S.PD & T about the reason for giving the recommendation to R.I,Malda, where the Court observed that R.I, Malda, is a erring officer .

Another erring officer namely Jahar Joyti Roy is absent .

No written reason is received towards his absence . The conduct towards non-attendance before the Court today will be considered at the time of full fledged hearing in presence of Special PP appointed by D.M,Malda .

All the matters will be taken up in presence of Special PP appointed by D.M,Malda .

To 15.03.2013 for awaiting order from D.M,Malda, appearance of the accused persons , written explanation of D.S.PD & T as per observation made in the body of the order , appearance of the erring officers .

Order no. 55.(contd).
05.03.2013

Let a copy of the order be sent to D.M,Malda, for information and taking necessary action .

Let a copy of the order be also sent to S.P,Malda, to direct D.S.PD & T, Malda, for submission of written explanation .

Dict. & Correct.
by me .
Sd/- J.B.Biswas,
A.S.J

Sd/- J.B.Biswas,
Additional Sessions Judge,
Fast Track, First Court, Malda .